

## PART II – SECTION I

### *Contract Clauses*

#### **I.1 3.1-1 CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE**

This SIR incorporates by reference one or more provisions or clauses listed below with the same force and effect as if they were given in full text. Upon request, the Contracting Officer (CO) will make the full text available or Offerors and Contractors may obtain the full text via Internet at: <http://fast.faa.gov> (on this web page, select “Contract Writing/Clauses”).

- 3.1.7-2 Organizational Conflict of Interest (August 1997)
- 3.1.7-4 Organizational Conflict of Interest SIR Provision - Short Form (February 2009)
- 3.1.7-5 Disclosure of Conflicts of Interest (February 2009)
- 3.1.8-1 Cancellation, Recission and Recovery of Funds for Illegal or Improper Activity (October 2009)
- 3.1.8-2 Price or Fee Adjustment for Illegal or Improper Activity (September 2000)
- 3.2.2.3-1 False Statements in Offers (July 2004)
- 3.2.2.3-3 Affiliated Offerors (July 2004)
- 3.2.2.3-6 Submittals in the English Language (July 2004)
- 3.2.2.3-7 Submittals in U.S. Currency (July 2004)
- 3.2.2.3-9 Notice of Possible Standardization (July 2004)
- 3.2.2.3-10 Type of Business Organization (July 2004)
- 3.2.2.3-11 Unnecessary Elaborate Submittals (July 2004)
- 3.2.2.3-12 Amendments to Screening Information Requests (July 2004)
- 3.2.2.3-13 Submission of Information/Documentation/Offerors ( July 2004)
- 3.2.2.3-14 Late Submissions, Modifications, and Withdrawals of Submittals (July 2004)
- 3.2.2.3-15 Authorized Negotiators (July 2004)
- 3.2.2.3-16 Restricting, Disclosing, and Using Data (July 2004)
- 3.2.2.3-17 Preparing Offers (July 2004)
- 3.2.2.3-18 Prospective Offeror’s Requests for Explanations (February 2009)
- 3.2.2.3-19 Contract Award (July 2004)
- 3.2.2.3-25 Reducing the Price of a Contract or Modification for Defective Cost or Pricing Data (July 2004)
- 3.2.2.3-27 Subcontractor Cost or Pricing Data (July 2004)
- 3.2.2.3-29 Integrity of Unit Prices (July 2004)
- 3.2.2.3-31 Facilities Capital Cost of Money (July 2004)
- 3.2.2.3-33 Order of Precedence
- 3.2.2.3-38 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data (July 2004)
- 3.2.2.3-70 Taxpayer Identification (July 2004)
- 3.2.2.3-72 Announcing Competing Offerors (July 2009)
- 3.2.2.7-6 Protecting the Government’s Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (February 2009)
- 3.2.2.7-7 Certification Regarding Responsibility Matters (January 2010)
- 3.2.2.7-8 Disclosure of Team Arrangements (April 2008)

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- 3.2.2.8-1 Material Requirement (April 2009)
- 3.2.4-27 Limitation of Price and Contractor Obligations (April 1996)
- 3.2.4-28 Cancellation of Items (April 1996)
- 3.2.5-1 Officials Not to Benefit (April 1996)
- 3.2.5-2 Independent Price Determination (October 1996)
- 3.2.5-3 Gratuities or Gifts (January 1999)
- 3.2.5-4 Contingent Fees (October 1996)
- 3.2.5-5 Anti-Kickback Procedures (October 1996)
- 3.2.5-6 Restrictions on Subcontractor Sales to the FAA (April 1996)
- 3.2.5-8 Whistleblower Protection for Contractor Employees (April 1996)
- 3.3.1-1 Payments (April 1996)
- 3.3.1-5 Payments under Time and Materials and Labor-Hour Contracts (April 2001)
- 3.3.1-8 Extras (April 1996)
- 3.3.1-9 Interest (September 2009)
- 3.3.1-10 Availability of Funds (April 1996)
- 3.3.1-11 Availability of Funds for the Next Fiscal Year (April 1996)
- 3.3.1-17 Prompt Payment (September 2009)
- 3.3.2-1 FAA Cost Principles (October 1996)
- 3.4.1-10 Insurance – Work on a Government Installation (July 1996)
- 3.4.1-12 Insurance (July 1996)
- 3.4.2-6 Taxes – Contracts Performed in U.S. Possessions or Puerto Rico (October 1996)
- 3.4.2-8 Federal, State, and Local Taxes – Fixed Price Contract (April 1996)
- 3.5-1 Authorization and Consent (January 2009)
- 3.5-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 3.5-3 Patent Indemnity Alternate I (January 2009)
- 3.5-13 Rights in Data (January 2009)
- 3.5-14 Representation of Limited Rights Data and Restricted Computer Software (January 2010)
- 3.6.1-1 Notice of Total Small Business Set-Aside (July 2006)
- 3.6.1-6 Liquidated Damages – Subcontracting Plan (January 2010)
- 3.6.2-1 Contract Work Hours and Safety Standards Act-Overtime Compensation (September 2003)
- 3.6.2-4 Walsh-Healey Public Contracts Act (April 1996)
- 3.6.2-6 Previous Contracts and Compliance Reports (April 1996)
- 3.6.2-7 Preaward On-Site Equal Opportunity Compliance Review (November 1997)
- 3.6.2-8 Affirmative Action Compliance (April 1996)
- 3.6.2-9 Equal Opportunity (August 1998)
- 3.6.2-12 Affirmative Action for Special Disabled and Vietnam Era Veterans (April 2007)
- 3.6.2-13 Affirmative Action for Workers With Disabilities (April 2000)
- 3.6.2-14 Employment Reports on Special Disabled Veterans and Veterans of Vietnam ERA

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- (April 2007)
- 3.6.2-28 Service Contract Act of 1965, as Amended (April 1996)
  - 3.6.2-30 Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (April 1996)
  - 3.6.2-35 Prevention of Sexual Harassment (August 1998)
  - 3.6.2-37 Notification of Employees’ Rights Concerning Payment of Union Dues or Fees (October 2009)
  - 3.6.2-38 Certification of Knowledge Regarding Child Labor End Products (July 2007)
  - 3.6.2-39 Trafficking in Persons (January 2008)
  - 3.6.3-16 Drug Free Workplace (February 2009)
  - 3.6.3-17 Efficiency in Energy-Using Products (April 2008)
  - 3.6.4-2 Buy American Act – Supplies (July 1996)
  - 3.6.4-5 Buy American – Steel and Manufactured Products (July 1996)
  - 3.6.4-10 Restrictions on Certain Foreign Purchases (January 2010)
  - 3.8.2-11 Continuity of Services (October 2008)
  - 3.9.1-1 Contract Disputes (September 2009)
  - 3.9.1-2 Protest After Award (August 1997)
  - 3.9.1-3 Protest (November 2002)
  - 3.10.1-7 Bankruptcy (April 1996)
  - 3.10.1-9 Stop-Work Order (October 1996)
  - 3.10.1-12 Changes – Fixed Price, including Alternate V (April 1996)
  - 3.10.1-13 Changes - Cost-Reimbursement (April 1996)
  - 3.10.1-14 Changes – Time and Materials or Labor Hours (April 1996)
  - 3.10.1-17 Change Order Accounting (April 1996)
  - 3.10.1-24 Notice of Delay (February 2009)
  - 3.10.1-25 Novation and Change-of-Name Agreements (October 2007)
  - 3.10.2-1 Subcontracts (Fixed-Price Contracts) including Alt.1 (April 1996)
  - 3.10.2-2 Subcontracts (Cost Reimbursement and Ceiling Priced Contracts) (April 1996)
  - 3.10.2-3 Subcontracts (Time-and-Materials and Labor-Hour Contracts) (April 1996)
  - 3.10.3-1 Definitions (April 2004)
  - 3.10.3-2 Government Property – Basic Clause, including Alt. I and II (April 2004)
  - 3.10.4-16 Responsibility for Supplies (April 1996)
  - 3.10.4-19 Government Industry Data Exchange Program (GIDEP) (January 2002)
  - 3.10.5-1 Product Improvement/Technology Enhancement (April 1996)
  - 3.10.6-1 Termination for Convenience of the Government (Fixed-Price) (October 1996)
  - 3.10.6-3 Termination (Cost Reimbursement, including Alt. IV and Alt. V) (Oct 1996)
  - 3.10.6-4 Default (Fixed-Price Supply and Service) (October 1996)
  - 3.10.6-7 Excusable Delays (October 1996)
  - 3.10.9-1 First Article Approval –Contractor Testing (July 2003)

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- 3.13-1 Approval of Contract (April 1996)
- 3.13-4 Contractor Identification Number-Data Universal Numbering System (DUNS) Number (April 2006)
- 3.13-5 Seat Belt Use by Contractor Employees (January 1999)
- 3.14-2 Contractor Personnel Suitability Requirements (January 2009)

## **I.2 CLAUSES PROVIDED IN FULL TEXT**

### **I.2.1 Clause 3.2.2.3-23 Place of Performance (July 2004)**

(a) The Offeror (you), in fulfilling any contract resulting from this Screening Information Request (SIR) , [ ] intends, [ ] does not intend (check applicable block) to use one or more plants or facilities located at a different address from your address as stated in this offer.

(b) If you check 'intends' in paragraph (a) above, insert the following information:

Place of Performance Street:

City:

State:

Zip Code:

Name of owner and operator, if other than the owner

(End of provision)

### **I.2.2 Clause 3.2.2.7-1 Qualification Requirements (February 2009)**

(a) Definition: 'Qualification requirement,' as used in this clause, means a Government requirement for testing or other quality assurance demonstration that must be completed before award.

(b) One or more qualification requirements apply to the supplies or services covered by this contract. For those supplies or services requiring qualification, whether the covered product or service is an end item under this contract or simply a component of an end item, the product, manufacturer, or source must have demonstrated that it meets the standards prescribed for qualification before award of this contract. The product, manufacturer, or source must be qualified at the time of award whether or not the name of the product, manufacturer, or source is actually included on a qualified products list, qualified manufacturers list, or qualified bidders list. Offerors should contact the agency activity designated below to obtain all requirements that they or their products or services, or their subcontractors or their products or services, must satisfy to become qualified and to arrange for an opportunity to demonstrate their abilities to meet the standards specified for qualification.

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(Agency Name and Contact)

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(Address)

(c) If an offeror, manufacturer, source, product or service covered by a qualification requirement has already met the standards specified, the relevant information noted below should be provided.

Offeror's Name \_\_\_\_\_  
 Manufacturer's Name \_\_\_\_\_  
 Source's Name \_\_\_\_\_  
 Item Name \_\_\_\_\_  
 Service Identification \_\_\_\_\_  
 Test Number \_\_\_\_\_  
 (to the extent known) \_\_\_\_\_

(d) Even though a product or service subject to a qualification requirement is not itself an end item under this contract, the product, manufacturer, or source must nevertheless be qualified at the time of award of this contract. This is necessary whether the Contractor or a subcontractor will ultimately provide the product or service in question. If, after award, the Contracting Officer discovers that an applicable qualification requirement was not in fact met at the time of award, the Contracting Officer may either terminate this contract for default or allow performance to continue if adequate consideration is offered and the action is determined to be otherwise in the Government's best interests.

(e) If an offeror, manufacturer, source, product, or service has met the qualification requirement but is not yet on a qualified products list or qualified vendors list, the offeror shall submit evidence of qualification prior to award of this contract. Unless determined to be in the Government's interest, award of this contract shall not be delayed to permit an offeror to submit evidence of qualification.

(f) Any change in location or ownership of the plant where a previously qualified product or service was manufactured or performed requires reevaluation of the qualification. Similarly, any change in location or ownership of a previously qualified manufacturer or source requires reevaluation of the qualification. The reevaluation must be accomplished before the date of award.

(End of clause)

**I.2.3 Clause 3.2.2.8-2 Variation in Quantity (April 1996)**

(a) A variation in the quantity of any contract item will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to: \_\_\_\_ % increase and \_\_\_\_ % decrease [Contracting Officer insert percentages]. This permissible variation shall be limited to \_\_\_\_\_ \*

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\*Contracting Officer insert the designations(s) to which the percentages apply, such as (1) the total contract quantity, (2) item 1 only, (3) each quantity specified in the delivery schedule, (4) the to total item quantity for each destination, or (5) the total quantity of each item without regard to destination.

(End of clause)

#### **I.2.4 Clause 3.6.1-7 Limitations on Subcontracting (July 2008)**

By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for:

- (a) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the prime contractor.
- (b) Supplies (other than procurements from a regular dealer in such supplies). The prime contractor shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
- (c) General construction. The prime contractor shall perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
- (d) Construction by special trade contractors. The prime contractor shall perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

Compute small business subcontracting labor cost percentages as follows:

Contractor Subcontractor

Direct Labor \$ \_\_\_\_\_ \$ \_\_\_\_\_

Allowable Overhead \_\_\_\_\_

Subtotal (A) \_\_\_\_\_ (B) \_\_\_\_\_

Labor G&A @ \_\_\_\_\_% \_\_\_\_\_

Total Labor Costs (C) \_\_\_\_\_ (D) \_\_\_\_\_

To calculate the subcontracting percentage, first add Direct Labor and Allowable Overhead and enter the figures for the contractor in space (A) and for the subcontractor (if available)\* in space (B).

Next, calculate Labor G & A by multiplying the G & A rate by the subtotal figure in space (A). Calculate subcontractor Labor G & A by multiplying the subcontractor's G & A rate by figure (B). Add the Labor G & A to the Subtotal and record that figure in the spaces for Total Labor Costs (C) and (D).

Now, using the formula  $(D)/(C) + (D)$ , calculate the subcontracting labor cost percentage.

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\*You need to be comparing as like figures as possible; therefore, if you have a breakdown of the subcontractor's costs, use it in the formulation above. If you do not have a breakdown of the subcontractors' costs, you should use the Total Subcontracting Amount for item (D), though you should still breakdown the contractor's costs.

(End of clause)

#### **I.2.5 Clause 3.14-2 Contractor Personnel Suitability Requirements (January 2009)**

(a) This clause applies to the extent that this contract requires contractor employees, subcontractors, or consultants to have unescorted access to FAA:

(1) Facilities;

(2) Sensitive information; and/or;

(3) Resources regardless of the location where such access occurs, and none of the exceptions of FAA Order 1600.72A, Contractor and Industrial Security Program, Chapter 5, paragraphs 4, 6, 7 and 8 pertains.

Definitions of applicable terminology are contained in the corresponding guidance and FAA Order 1600.72A, appendix A.

(b) Consistent with FAA Order 1600.72A, the FAA Servicing Security Element (SSE) has approved designated risk levels for the positions under the contract. Those designated risk levels are:

[To be entered by the CO based on the 1600-77(s) approved by the SSE]

(c) If a National Agency Check with Inquiries (NACI) or other investigation is required under paragraph (b) for a given position, the contractor will submit to the Contracting Officer (CO) a point of contact (POC) that will enter applicant data into the Vendor Applicant Process (VAP) system ([vap.faa.gov](http://vap.faa.gov)). VAP is a FAA system used to process and manage security information for FAA contractor personnel. Each contract may have up to 5 POCs. Once designated, a VAP administrator will provide each POC a Web ID and password.

The type of investigation conducted will be determined by the position risk level designation for all duties, functions, and/or tasks performed and will serve as the basis for granting a favorable employment suitability authorization as described in FAA Order 1600.72A. If an employee has had a previous U. S. Government conducted background investigation which meets the requirements of Chapter 5 of FAA Order 1600.72A and

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Homeland Security Presidential Directive 12 (HSPD-12), it will be accepted by the FAA. However, the FAA reserves the right to conduct further investigations, if necessary. The contract may include positions that are temporary, seasonal, or under escort only. In such cases, a FAA Form 1600-77 for each specific position will be established as the investigative requirements may differ from the NACI.

The following information must be entered into VAP by the POC for each applicant requiring an investigation:

- Name;
- Date and place of birth (city and state);
- Social Security Number (SSN);
- Position and office location;
- Contract number;
- Current e-mail address and telephone number (personal or work); and
- Any known information regarding current security clearance or previous investigations (e.g. the name of the investigating entity, type of background investigation conducted, contract number, labor category (Position), and approximate date the previous background investigation was completed).

If a prior investigation exists and there has not been a 2 year break in service by the applicant, the SSE will notify the contractor that no investigation is required and that final suitability is approved.

If no previous investigation exists, the SSE will send the applicant an e-mail (this step may be delegated to VAP POC):

- Stating that no previous investigation exists and the applicant must complete a form through the Electronic Questionnaires for Investigations Processing (eQIP) system;
- Instructing the applicant how to enter and complete the eQIP form;
- Providing where to send/fax signature and release pages and other applicable forms; and
- Providing instructions regarding fingerprinting.

The applicant must complete the eQIP form and submit other required material within 15 days of receiving the e-mail from the SSE.

For items to be submitted outside eQIP, the contractor must submit the required information with a transmittal letter referencing the contract number to:

Headquarters Contracts:

Manager, Personnel Security Division, AIN-400  
800 Independence Avenue, S.W., Room 315  
Washington, D.C. 20591

Regional and Center Contracts:

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[CO insert appropriate Regional or Center information here or enter "none" if not applicable]

The transmittal letter must also include a list of all of the names of contractor employees and their positions for which completed forms will be submitted to the SSE pursuant to this Clause.

(d) The contractor must submit the information required by paragraph (c) of this Clause for any new employee not listed in the Contractor's initial submission who is hired into any position identified in paragraph (b) of this Clause.

(e) The CO will provide notice to the contractor when any contractor employee is found to be unsuitable or otherwise objectionable, or whose conduct appears contrary to the public interest, or inconsistent with the best interest of national security. The contractor must take appropriate action, including the removal of such employee from working on this FAA contract, at their own expense. Once action has been taken, the contractor will report the action to the CO and SSE.

(f) No contractor employee will work in a high, moderate, or low risk position unless the SSE has received all forms necessary to conduct any required investigation and has authorized the contractor employee to begin work.

(g) The contractor must notify the CO within one (1) business day after any employee identified pursuant to paragraph (c) of this Clause is terminated from performance on the contract. This notification must be done utilizing the Removal Entry Screen of VAP. If FAA issued the terminated employee and identification card, the contractor must collect the card and submit it to the SSE.

(h) The CO may also, after coordination with the SSE and other security specialists, require contractor employees to submit any other security information (including additional fingerprinting) deemed reasonably necessary to protect the interests of the FAA. In this event, the contractor must provide, or cause each of its employees to provide, such security information to the SSE, and the same transmittal letter requirements of paragraph (c) of this Clause applies.

(i) The contractor and/or subcontractor(s) must contact the Servicing Security Elements (Regional and/or Center Security Divisions) or AIN-400 at Headquarters within one (1) business day in the event an employee is arrested (detained by law enforcement for any offenses, other than minor traffic offenses) or is involved in theft of government property or the contractor becomes aware of any information that may raise a question about the suitability of a contractor employee.

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(j) Failure to submit information required by this clause within the time required may be determined by the CO a material breach of the contract.

(k) If subsequent to the effective date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in direct contract costs or otherwise affect any other term or condition of this contract, the contract will be subject to an equitable adjustment.

(l) The contractor agrees to insert terms that conform substantially to the language of this clause, including paragraph (k) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access and where the exceptions under Chapter 5, FAA Order 1600.72A do not apply.

(m) Contractor employees who have not undergone a background investigation must be escorted at all times. In some instances, a contractor employee may be required to serve as an escort. To serve as an escort, a contractor employee must have a favorably adjudicated fingerprint check and initiated a NACI with FAA.

(End of Clause)

End of Section I